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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/558,895

11/30/2005

Johannes Bergmann

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11/24/2009

SIEMENS CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
170 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

EXAMINER

WYLLIE, CHRISTOPHER T

ART UNIT

PAPER NUMBER

2465

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/558,895	<b>Applicant(s)</b> BERGMANN ET AL.	
	<b>Examiner</b> CHRISTOPHER T. WYLLIE	<b>Art Unit</b> 2465	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED OFFICE ACTION**

1. This action is responsive to the communication received July 13<sup>th</sup>, 2009. Claim 4 has been amended. Claims 1-3 and 5-6 have been canceled via a previous amendment. Claim 4 has been entered and is presented for examination.
2. Application 10/558,895 claims priority to German Application 103 24 603.7 (05/30/2004) and is a 371 of PCT/EP04/50948 (05/24/2004).
3. Applicant's arguments, filed July 13<sup>th</sup>, 2009, have been fully considered, but deemed non-persuasive. The rejection of claim 4 is respectfully maintained. The rejection is reiterated below for Applicant's convenience.

### ***Foreign Priority***

4. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed.

### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, all the claim limitations of claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Xu et al. (Implementation Techniques of IntServ/DiffServ Integrated Network-IEEE, Vol. 1 04/09/2003) in view of Hackney.

Regarding claim 4, Xu et al. discloses a method for relaying Internet Protocol (IP) packets to an external control component assigned to a network node in a communication network (p. 233 column 2 [the RID-BR receives and recognizes the RSVP messages with the protocol number 46 and modifies the header of the packet by adding DSCP (110000) and sends it to the BB]), the communication network having a plurality of network nodes and switching IP packets (see Figure 1 and p. 233, column 2 [the network has RID-BR nodes and BB nodes; the RID-BR nodes switch specific messages to the BB]), the method comprising receiving an in-band IP signaling packet at an external interface of the network node (p. 233 column 2 [the RID-BR receives and recognizes the RSVP messages with the protocol number 46]); connecting the external interface to the external control component (see Figure 1, RID-BR1 and BB are

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connected wirelessly; p. 233 column 2 [the RID-BR receives and recognizes the RSVP messages with the protocol number 46; p. 233 column 2 [the RID-BR receives and recognizes the RSVP messages and modifies the header of the packet by adding DSCP (110000) and sends it to the BB]]; identifying the packet as an RSVP (Resource Reservation Protocol) type of packet (p. 233 column 2 [the RID-BR receives and recognizes the RSVP messages with the protocol number 46]); modifying a DSCP (Differentiated Services Code Point) field in the header of the packet; and routing the modified packet to the external control component connected to the external interface, and thus relaying Internet Protocol (IP) packets to the external control component assigned to the network node (p. 233 column 2 [the RID-BR modifies the header of the packet by adding DSCP (110000) and sends it to the BB]). Xu et al. is silent regarding the DSCP field containing the value uniquely assigned to the receiving external interface. However, Hackney discloses such features (column 2, lines 61-64 and column 3, lines 45-55, and column 4, lines 61-67 [Hackney discloses that the packet can be an IP packet; the DHCP field of the packet is modified to be used for a non-intended use such as identifying a destination address that the packet will be routed to; the destination address in this case can be used to identify the address of the BB to which the RSVP message would be routed to; also, the function of the router is to change the DSCP field of the packet to a destination address]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the method of Hackney into the system of Xu et al. The method of Hackney can be implemented by enabling the modifying the

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DSCP field to include the address of the BB. The motivation for this is to indicate that the packet will be forwarded to the BB for further processing.

### ***Response to Arguments***

10. On pages 3-4 of the Remarks, Applicant argues that the combination of the Xu et al. (Implementation Techniques of IntServ/DiffServ Integrated Network-2003) and Hackney (US 7,359,984) references do not meet the requirements of MPEP 2143.01 VI, which requires that the proposed modification must not change the principle operation of a reference. However, the examiner disagrees and contends that the modification proposed by Hackney does not change the principle operation of the Xu et al. reference.

The Xu et al. reference discloses that the RID-BR receives and recognizes the RSVP message based on the protocol number and modifies the header of the packet by adding DSCP field with the value 110000 and sends it to the BB (**p.233, column 2**) and is sent with a high priority because its identified as a RSVP message (**p.231, column 2**).

The Hackney reference discloses that the DHCP field of an IP packet is modified to include the destination address (**column 2, lines 61-64, column 3, lines 45-55, and column 4, lines 61-67**). Hackney further discloses that the destination address in the DSCP field is used to perform quality of service processing, class of service processing, traffic shaping processing, TOS processing, and/or any other type of network policy processing on the message (**column 3, lines 56-65**).

Therefore, it would have been obvious to one of ordinary skill in the art to suggest adding the destination address of the BB as value added into the DSCP of Xu

et al. since both the 110000 value and the destination address value are used to forward messages with a specific quality of service. Furthermore each reference suggests that the DSCP can be modified, which serves as more evident that the two references are combinable without changing the principle operation of either reference.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER T. WYLLIE whose telephone number is (571) 270-3937. The examiner can normally be reached on Monday through Friday 8:30am to 6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher T. Wyllie/  
Examiner, Art Unit 2465

/Jayanti K. Patel/  
Supervisory Patent Examiner, Art Unit 2465